IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No 79l9 of 2004

Mohd Ayub Mohd Ishaq Naga... petitioner
vs
The Edn Officer ZP Nasik and ors.. respondents

Mr M H Solkar for petitioners
Mr. V.P Malvankar AGP for State
Mr.N R Bubna for added respondents

CORAM:A.P.SHAH & S.C.DHARMADHIKARI JJ.
Dated l5.l0.2004

P.C:

Rule. Respondents waive service. By consent rule is made returnable forthwith.

l. This petition takes exception to the letter issued by the respondent no. 2 dated 7.6.2004 whereby he purported to entrust the management of Shaikh Usman High School to one Manzoor Khan Wahid Khan. The said school is managed by Shaikh Usman Education Society which was established in l97l. The society is registered as a public trust under Registration No. F/l59 (Nasik). It appears that there are serious disputs between the board of trustees and as many as 7 change reports are pending before the Charity Commissioner.

2. In Writ Petition No. 270 of 200l this court appointed an administrator(respondent no.2) to manage the school till the decision of the Asst. Charity Commissioner and directed the Asst Charity Commissioner to dispose of the proceedings by the lend of December 200l. The proceedings, could not be disposed of within the time limit fixed by this court and ultimately the division bench vacated the order appointing the administrator and restored the managing committee of the society vide order dated 2.l2.2003.

3. Pursuant to the order passed by this court the respondent no. 2 entrusted the charge of the school to the petitioner who was acting as the President of the board of trustees vide his letter dated 23.2.2004. Surprisingly after about two months the respondent no.2 addressed letter dated 7.6.2004 entrusting the charge to the Secretary of the trust i.e. Manzoor Khan Vahid Khan. The letter inter alia reads as follows:

> "Under reference no. 3, the list of trustees of the society has been received from Supdt Public Trust Registration office

Nasik. Division Nasik. Accordingly, you no.l are chairman and no. 2 is General Secretary of the society.

I under my letter at reference no.l has entrusted charge of the school to the chairman of existing managing committee, which is technically improper. As per constitution of society, it is the responsibility of general secretary to look after the administrative work of the society.

As per directions of the Hon‘ble High Court, Mumbai administration of school is required to be handed over to managing committee, looking after administration of the society.

Considering all the above facts, the trustees mentioned in the letter dt. 7.4.2004 of the Supdt Public Trust Registration Office, Nasik Division, Nasik .under the chairmanship of Mohd Ayub Mohd Ishaque Naga, chairman are required to take administrative decision as regards Shaikh Usman High School and to implement the same

through Hon‘ble Manjoorkhan Wahidkhan general secretary and to control school administration.

Therefore under this letter administrative charge of Shaikh Usman High School, Malegaon, is being handed over to Shri Manjoorkhan Wahidkhan Gen Secretary Shaikh Usman Education Society Malegaon. All the concerned shall take proper note thereof and to cooperate by taking necessary steps. May this be known".

4. We fail to appreciate as to how respondent no. 2 could again hand over the charge to the Secretary of the society, when the charge was already entrusted over to the President of the trust. After handing over the charge respondent no. 2 has become functus officio and he had no jurisdiction or authority to take any action in respect of the society.Therefore we quash and set aside the letter dated 7.6.2004. However, we make it clear that this order is without prejudcie to the rights and contentions of the added respondents and the added respondents are at liberty to adopt appropriate proceedings in accordance with law if any violation

is committed by the petitioner.

Petition stands disposed of accordingly.